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In re Application of
MATHIEU, GAETAN L. et al
Appl. No.: 09/527,931
Filed: March 17, 2000
For: METHODS FOR PLANARIZING A
SEMICONDUCTOR CONTACTOR

4/6/09
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: DECISION ON PETITION
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This is a decision on the petition filed on February 6, 2009 by which petitioner request withdrawal of the finality of the Office action dated January 8, 2009. The petition is considered pursuant to 37 CFR 1.181 and no fee is required.

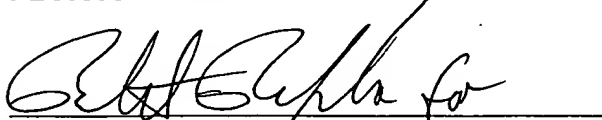
The petition is granted.

In the petition, petitioner argues that in response to the Pre-Appeal Brief Conference of September 18, 2008, the examiner re-opened prosecution by issuing a final rejection with new grounds on January 8, 2009 which contains a few changes in the rejection. In particular, petitioner disputes the propriety of the finality of the office action mailed on Jan. 8, 2008. The finality of the office action is not in compliance with MPEP § 1207.03. Petitioner argues that the examiner should have issued a non-final Office because the final rejection of Jan. 8, 2008 was not necessitated by any amendment to the claims and only necessitated by the decision of pre-appeal brief conference of October 31, 2008.

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed Jan. 8, 2008 is hereby withdrawn. The period to respond to the last Office action of Jan. 8, 2008 remains unchanged. The examiner has been directed to treat the applicant's response to the outstanding Office action of Jan. 8, 2008 as 37 CFR § 1.111 amendment.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.



Donald T. Hajec, Director
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